

Regulation respecting contracts of the Ethics Commissioner
Code of ethics and conduct of the
Members of the National Assembly
(2010, chapter 30, s. 65)

DIVISION I

SCOPE

1. This regulation governs sale, lease, service and enterprise contracts entered into by the Ethics Commissioner.

It also governs agreements to enter into such contracts, on specified terms and for a set price, with one or more suppliers.

It does not apply to the employment contracts of persons hired as employees nor to services provided at no charge by the National Assembly under section 61 of the Code of ethics and conduct of the Members of the National Assembly.

DIVISION II

PRINCIPLES

2. The conditions determined by this regulation aim to promote
 - (1) transparency, integrity and fairness in contracting processes;
 - (2) the opportunity for qualified tenderers to compete in invitations to tender or calls for tenders made by the Ethics Commissioner;
 - (3) the use of effective contracting procedures, including careful, thorough prior evaluation of procurement requirements that reflect the National Assembly's sustainable development and environmental policies; and
 - (4) accountability reporting by the Ethics Commissioner to verify the proper use of public funds.

DIVISION III

PRIOR AUTHORIZATION

3. Any contract or change to a contract must be preceded by a request submitted to and authorized by the Ethics Commissioner.

DIVISION IV

TENDERING PROCESS

4. For every contract under \$50,000, an invitation to tender must be issued to a minimum of three suppliers, or to those available if there are fewer than three.
5. For every contract equal to or over \$50,000, a public call for tenders must be issued.

A public call for tenders is issued by publishing a notice on an electronic public tendering system.

6. No tendering process is required for a contract entered into with the Société immobilière du Québec or any other public body, government agency or government enterprise within the meaning of sections 3 to 6 of the Auditor General Act (R.S.Q., chapter V-5.01).

The same applies for a contract entered into with the Centre de services partagés du Québec or as part of a mandate conferred on that body by the Ethics Commissioner or the National Assembly.

7. Nor is a tendering process required

- (1) for a contract under \$5,000 involving property;
- (2) for a professional services contract under \$15,000;
- (3) for a contract under \$25,000 for professional development and training purposes;

- (4) if, in the opinion of the Ethics Commissioner, there is only one available or possible supplier because of the existence of a guarantee, a right of ownership or an exclusive right, or only one supplier meets the required specifications;

- (5) for the purchase of property resulting from a contract of leasing;

(6) for a subscription to or the purchase of books, newspapers, periodicals, magazines, microfilms and data bases;

(7) if, in the opinion of the Ethics Commissioner, there is an emergency that threatens the safety of human beings or property;

(8) if the contract involves confidential or protected information and a tendering process would not serve the public interest, including a contract for legal, accounting or investigative and forensic accounting services; or

(9) if the Ethics Commissioner is of the opinion that a tendering process would likely compromise an investigation or a verification procedure or reveal its confidential nature, or constitute a hindrance to the exercise of the Ethics Commissioner's duties.

8. For any contract, on the request of the Ethics Commission, the Office of the National Assembly may change the terms of a tendering process, or decide, on the conditions it sets, if any, that the contract will be entered into without a tendering process.

9. The Ethics Commissioner must, within the tendering process, make sure that the enterprises with which the Ethics Commissioner enters into a contract act with honesty and integrity. To that end, the Ethics Commissioner may, by means of the tendering documents or otherwise,

(1) put measures in place allowing the Ethics Commissioner to make sure that no tenderer or representative of a tenderer has communicated or attempted to communicate with a member of the selection committee concerning the tendering process, particularly in order to influence the committee member;

(2) put measures in place to ensure compliance with all the applicable Acts, including the Competition Act (R.S.C. 1985, c. C-34) to counter bid-rigging, and provide that if an enterprise contravenes any of the applicable Acts, the contract may not be entered into or may be resiliated;

(3) reserve the right to claim from any tenderer who fails to follow through on the tender submitted the difference between the amount of that tender and the amount of the tender subsequently accepted, in order to avoid prior agreements between tenderers;

(4) specify that there is a possibility that none of the tenders received will be accepted, particularly if the Ethics Commissioner considers that the bids are too high or disproportionate or do not reflect a fair price; and

(5) take all measures necessary to prevent any situation likely to compromise the impartiality or objectivity of the tendering process or the management of the resulting contract, in particular to prevent conflict of interest situations and intimidation, influence peddling and corruption.

DIVISION V AWARDING OF CONTRACTS

10. The Ethics Commissioner awards the contract to the supplier who submits the lowest compliant tender, unless the invitation to tender or the call for tenders provides otherwise.

11. Where identical results are obtained by two or more suppliers following a call for tenders, the contract is awarded by a drawing of the lots.

12. A supplier may not be awarded contracts totalling more than \$25,000 during the same fiscal year, except with the authorization of the Ethics Commissioner.

This section does not apply to the cases referred to in section 6 or paragraph 4, 6, 8 or 9 of section 7 or if each of the contracts was awarded following an invitation to tender or a call for tenders.

For the purposes of the first paragraph, if a contract covers two or more fiscal years, the total amount is taken into account each fiscal year.

13. The Ethics Commissioner may negotiate to lower the amount of the bid if

(1) only one supplier submitted a compliant tender;

(2) the supplier agrees to lower the bid; and

(3) the amount of the bid is the only change being negotiated to the terms stipulated in the tender documents and in the tender.

DIVISION VI SIGNING OF CONTRACTS

14. Any contract or change to a contract is signed by the Ethics Commissioner.

DIVISION VII

PROFESSIONAL SERVICES CONTRACTS

15. When the Ethics Commissioner hires the services of a member of a professional order, the terms of service and the fees payable to the professional must be set out in the contract.

16. The fees payable for professional services are determined on an hourly basis or on a stipulated price basis.

17. Unless the Office of the National Assembly allows it expressly, an advocate or notary remunerated on an hourly basis may not receive more than

(1) \$135 per hour, if he or she has been practising for less than 6 years since obtaining the full right to practise;

(2) \$200 per hour, if he or she has been practising for 6 to 10 years since obtaining the full right to practise; or

(3) \$300 per hour, if he or she has been practising for more than 10 years since obtaining the full right to practise.

18. Despite section 17, the Ethics Commissioner may hire the professional services of an advocate at a higher hourly rate when the parliamentary privileges of the National Assembly and its members are at issue in a proceeding.

In such a case, the Ethics Commissioner must report to the Office of the National Assembly at its next meeting.

19. The sum payable to a professional remunerated on a stipulated price basis is based on the estimated number of hours required to carry out the mandate. The hourly rate used in the estimate is determined according to the prescribed hourly rate if the professional is an advocate or a notary.

If the stipulated price basis is used, the mandate assigned by contract must be clear and explicit as to the targeted results and service performance methodology.

20. Professional services are paid monthly on presentation of a detailed account showing the progress of the mandate. The account must first be approved by the Ethics Commissioner.

The account must state the number of hours, to the nearest half-hour, worked by the professional.

21. If the mandate is terminated or deferred in whole or in part by the Ethics Commissioner, the professional services are paid in proportion to the progress of the work.

22. If the contract provides for travel and living expenses, they are reimbursed according to the terms set out in the Politique de gestion contractuelle concernant les frais de déplacement des personnes engagées à honoraires par certains organismes publics adopted by C.T. No. 208455 dated 9 December 2009.

If the contract provides for long distance, photocopy, fax or messenger services expenses, they are reimbursed only if they are necessary for the carrying out of the mandate and on presentation of vouchers.

23. If the contract provides for the hiring of expert consultants by the professional, their fees must first be approved by the Ethics Commissioner.

The fees are reimbursed on presentation of vouchers.

DIVISION VIII

ALIENATION OF MOVABLE PROPERTY

24. The alienation of any movable property whose fair market value is equal to or greater than \$1,000 requires a tendering process in accordance with section 4 or 5, as applicable, unless the Ethics Commissioner decides otherwise. Alternatively, the property may be assigned to the Centre de services partagés du Québec to be disposed of.

Any movable property whose fair market value is less than \$1,000 may be alienated as the Ethics Commissioner sees fit.

25. Any alienation of property or change to a contract for the alienation of property must be negotiated, entered into and signed by the Ethics Commissioner.

DIVISION IX
FINAL PROVISIONS

26. This regulation comes into force on 24 February 2011.

Made in Québec, this

(Signature)
Ethics Commissioner